



Agenda Date: 9/13/06
Agenda Item: IV E

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

TELECOMMUNICATIONS

DECISION AND ORDER

IN THE MATTER OF THE PETITIONS OF)
VERIZON NEW JERSEY, INC. FOR) DOCKET NOS. TE06050347 through
APPROVAL OF MUNICIPAL CONSENTS) TE06050356, TE06060460 and
PURSUANT TO N.J.S.A. 48:2-14) TE06060461

(SERVICE LIST ATTACHED)

BY THE BOARD:

By verified petitions filed pursuant to N.J.S.A. 48:2-14 on May 9, 2006,¹ and June 19, 2006,² respectively, Verizon New Jersey Inc. (Verizon) requested approval of consent ordinances adopted by 12 individual municipalities. The subject municipalities are set forth on Schedule A which is attached hereto and made a part hereof.

Verizon is a public utility subject to the jurisdiction of the Board pursuant to the applicable provisions of Title 48 of the New Jersey statutes and is authorized to provide telecommunications services in the State of New Jersey, including the municipalities listed on the attached Schedule A.

After appropriate notice, a hearing in these matters was held on July 18, 2006, at the Board's Newark offices before Edward D. Beslow, Esq., the Board's duly designated Hearing Examiner.

At hearing, Verizon relied on the testimony of Thomas Caserta, its Manager of Land Use Matters. Mr. Caserta noted that his duties include reviewing and negotiating consent ordinance renewals such as those that comprise the matters now pending. The witness testified that the ordinances provide Verizon with the authority to use the public rights-of-way and designated areas for the purpose of locating, maintaining and operating its facilities, and are reasonably necessary in order that Verizon may provide its business and residential customers with proper

¹ Docket Nos. TE06050347 through TE06050356.

² Docket Nos. TE06060460 and TE06060461.

and adequate telecommunications services. Mr. Caserta further testified that the consents also provide protection to the affected municipalities in that, among other things, they cover such topics as the location of poles and underground facilities, the use of facilities for police and fire protection purposes, as well as associated equipment and fixtures for Verizon's local lines and through lines. In addition, the witness noted that Verizon has agreed to comply with local ordinances for the purposes of street openings and restorations, and to provide indemnification for damages arising from any work performed by Verizon. Mr. Caserta further stated that in addition to the approximate \$1.5 million paid to the affected municipalities in the form of real and personal property taxes, Verizon also pays all reasonable fees charged by the governmental entities for related work, such as engineering reviews, associated with Verizon's activities.

Mr. Caserta also stated that the pending consents, which are not exclusive, are renewals of prior ordinances in that Verizon and its predecessors have been providing telecommunications services to the subject municipalities over an extended and uninterrupted period of time.

By letter dated June 7, 2006, related to Verizon's filing of May 9, 2006, which consisted of 10 individual municipal consents, the Division of Rate Counsel (Rate Counsel), then known as Division of the Ratepayer Advocate, noted that while the subject ordinances contained general language to the effect that Verizon would leave any area it affected in as good a condition as it was found, only a few ordinances "...specifically required a performance or restoration bond to assure the payment of applicable fees and proper restoration of disturbed areas." As such bonds can provide "... additional security with financial recourse so that municipal revenue will not have to be used to cover restorations...", Rate Counsel "...urge[d] each municipality to consider including a bond requirement in future consent ordinances." Rate Counsel also recommended that, with regard to those municipal consents that are silent as to length of duration, the Board should continue to imply a term of 50 years. I/M/O the Petition of Bell Atlantic-New Jersey, Inc. for Approval of Municipal and County Consent Ordinances and Resolutions (Docket Nos. TE99040272 through TE99040304) and I/M/O the Petition of Verizon New Jersey Inc. for Approval of Municipal and County Consents Pursuant to N.J.S.A. 48:2-14 (Docket Nos. TE00100718 through TE00100741) (March 22, 2002). Subsequent to Verizon's June 19, 2006 filing, which consisted of two municipal consents, Rate Counsel, by letter dated July 17, 2006, submitted amended comments applicable to all 12 consents. In its amended comments, Rate Counsel suggested that in light of the "...evolving telecommunications/video landscape that will affect municipalities in the event that Verizon is granted a statewide franchise for video services...", it would be more prudent to impute a term of 7 years, rather than 50 years, as that would be consistent with the applicable timeframes contained in the pending legislation and would "...further assist in leveling the video transmission playing field."³

At hearing, Mr. Caserta stated that Verizon presently has bonding arrangements with virtually all municipalities that it services and noted that he considers such requirements to be reasonable. He further indicated that Verizon would prefer to receive consents that are perpetual or long-term and would be opposed to the imposition of a seven-year term. The witness noted that while it is not burdensome to negotiate a handful of ordinances at short intervals, it would be administratively onerous to have to negotiate all future ordinances on a cycle of 7 years or less given the number of municipal consents throughout New Jersey that Verizon has to negotiate and the substantial amount of time necessary for those negotiations. In addition, by letter dated July 21, 2006, Verizon's counsel noted that the Board has previously held that ordinances such

³ A-804/S-192 (P.L. 2006, c.83), which authorizes a competitive system-wide franchise for the provision of cable television services, was signed into law by Governor Corzine on August 4, 2006.

as those in the pending matters do not authorize or relate to the ability of Verizon to provide video service. In the Matter of the Petition of Bell Atlantic-New Jersey, Inc. For Approval of Municipal Consent Ordinances, Docket Nos. TE94120615 through TE94120664 (September 18, 1997).


As indicated above, the record reflects that Verizon complies with all pertinent local ordinances, including those that pertain to street openings and restorations, and provides indemnification for damages arising from any work performed by the utility. The record further reflects that Verizon pays real and personal property taxes to the affected municipalities as well as all reasonable fees charged by those governmental entities for related work, such as engineering reviews, associated with Verizon's activities.

Based on a review of the entire record, the Board HEREBY FINDS that the consents granted to Verizon New Jersey Inc. by the individual municipalities listed on Schedule A, attached hereto, are reasonable and are necessary and proper for the public convenience and properly conserve the public interests. With regard to those consents that are silent as to length of duration, the Board finds the position presented by Rate Counsel that there is a nexus between the pending consents and the ability of Verizon to provide video services to be unpersuasive. There is currently nothing in the existing law, including the recently enacted legislation that relates to a statewide franchise for the provision of video services, which would allow Verizon to utilize the consents that are the subject of this proceeding as support or license for the provision of video services. Accordingly, consistent with its recent determinations in similar matters, the Board will imply terms of 50 years to those consents that are silent as to term.

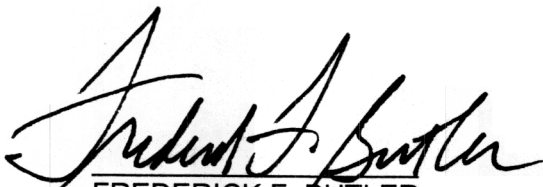
Therefore, the Board, pursuant to N.J.S.A. 48:2-14, HEREBY APPROVES the consents granted to Verizon New Jersey Inc. by the municipalities set forth on Schedule A. With regard to those consents with unspecified terms, the Board HEREBY MODIFIES said consents only to the extent necessary to imply therein terms of 50 years.

DATED: 9/14/06

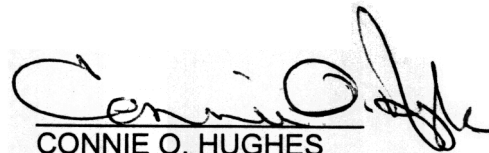
BOARD OF PUBLIC UTILITIES
BY:



JEANNE M. FOX
PRESIDENT



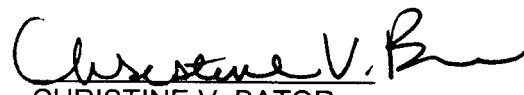
FREDERICK F. BUTLER
COMMISSIONER



CONNIE O. HUGHES
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER



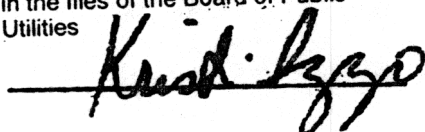
CHRISTINE V. BATOR
COMMISSIONER

ATTEST:



KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



KRISTI IZZO

4 BPU Docket Nos TE06050347-TE06050356
TE06060460-TE06060461

SCHEDULE A

	MUNICIPALITY	DOCKET NUMBER	TERM (YEARS)
1.	Township of Bedminster	TE06050347	50
2.	City of Elizabeth	TE06050348	10
3.	Township of Hillsborough	TE06050349	15
4.	Township of Holland	TE06050350	50
5.	Township of Independence	TE06050351	50*
6.	Borough of National Park	TE06050352	50*
7.	Township of Pohatcong	TE06050353	50*
8.	Township of Scotch Plains	TE06050354	20
9.	Township of Washington (Bergen Cty.)	TE06050355	50*
10.	Township of Wayne	TE06050356	20
11.	Borough of Mount Arlington	TE06060460	50*
12.	Borough of Stanhope	TE06060461	50*

Consent is silent as to term.

**I/M/O the Petition of Verizon New Jersey Inc. for
Approval of Municipal Consents
BPU Docket Nos. TE06050347 through TE06050356
TE06060460 and TE06060461**

SERVICE LIST

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